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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DESHAWN L. THOMAS,

Case No. 2:18-cv-00020-GMN-PAL

Petitioner,

ORDER

v.

BRIAN WILLIAMS, et al.,

Respondents.

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by Nevada state prisoner Deshawn L. Thomas. On June 29, 2018, this court granted petitioner's motion for counsel and appointed the Federal Public Defender (FPD) to represent petitioner in this action (ECF No. 9). On July 27, 2018, Thomas Lee of the Federal Public Defender's Office appeared on behalf of petitioner (ECF No. 12).

On August 3, 2018, through the FPD, Thomas contemporaneously filed a first-amended petition, a motion for leave to file a second-amended petition, and a motion for stay and abeyance (ECF Nos. 13, 18, 19). Counsel explains that, according to his calculations, Thomas's AEDPA statute of limitations expired on or about August 6, 2018. Thus, counsel filed the first-amended petition as a protective petition in order that Thomas would have a timely federal petition on file while counsel thoroughly reviewed his case. See *Rhines v. Weber*, 544 U.S. 269 (2005); *Pace v. DiGuglielmo*, 544 U.S. 416 (2005).

1 In the motion to stay, counsel for petitioner further informs the court that he has
2 discovered that Thomas has a counseled state postconviction petition currently pending
3 (ECF No. 19, p. 2). Thomas points out that the outcome in state court may directly
4 impact his federal claims. Good cause appearing, the motion for stay and abeyance
5 shall be granted.
6

7 **IT IS THEREFORE ORDERED** that petitioner's motion for stay and abeyance
8 (ECF No. 19) is **GRANTED**.

9 **IT IS FURTHER ORDERED** that petitioner's motion for leave to file a second-
10 amended petition (ECF No. 18) is **GRANTED**.


11 **IT IS FURTHER ORDERED** that this action is **STAYED** pending final resolution
12 of petitioner's state postconviction habeas petition.
13

14 **IT IS FURTHER ORDERED** that the grant of a stay is conditioned upon petitioner
15 returning to federal court with a motion to reopen the case within forty-five (45) days of
16 the issuance of the remittitur by the Supreme Court of Nevada, at the conclusion of the
17 state court proceedings on the postconviction habeas petition.

18 **IT IS FURTHER ORDERED** that the court's scheduling order dated August 6,
19 2018 (ECF No. 20) is **VACATED**.
20

21 **IT IS FURTHER ORDERED** that the Clerk **SHALL ADMINISTRATIVELY**
22 **CLOSE** this action, until such time as the court grants a motion to reopen the matter.
23

24 DATED: 7 August 2018.
25

26 
27 GLORIA M. NAVARRO, CHIEF JUDGE
28 UNITED STATES DISTRICT COURT